



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/894,824	08/29/97	FRIEBE R	BAYER9930-WC

IM61/0427  
SPRUNG KRAMER SCHAEFER & BRISCOE  
660 WHITE PLAINS ROAD  
4TH FLOOR  
TARRYTOWN NY 10591-5144

EXAMINER  
MOORE, M

ART UNIT	PAPER NUMBER
1712	12

DATE MAILED: 04/27/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.  
**08/894,824**

Applicant(s)  
**Friebe et al.**

Examiner  
**Margaret Glass Moore**

Group Art Unit  
**1712**



☒ Responsive to communication(s) filed on Jan 13, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

☒ Claim(s) 1 to 6 and 8 to 13 is/are pending in the application.

Of the above, claim(s) 11 and 12 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1 to 6, 8 to 10 and 13 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1712

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 to 6, 8 to 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakabayashi et al. in view of Kimura et al. for reasons of record.

This rejection relies on the same rationale as was detailed in the previous office action. As such this will not be repeated.


3. Claims 1 to 6, 8 to 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiller et al. in view of Sattlegger et al.

This rejection relies on the same rationale as was detailed in the previous office action. As such this will not be repeated.

4. This application is a continued prosecution application (CPA) in which no preliminary amendment has been filed and the claims are drawn to the same invention finally rejected in the last office action. Thus the Examiner could make this action final. However during a previous conversation with applicants' representative, Mr. Gerstenzang indicated that applicants were preparing a Declaration and/or preliminary amendment. The Examiner postponed acting on this application, but due to office time constraints, must now issue an office action. In an effort to accommodate applicants, this will be made non-final.

5. Any inquiry concerning this communication should be directed to Margaret G. Moore at telephone number (703) 308-4334.

Any **official** documents (after final rejection) can be faxed to (703) 305-3599. All other **official** faxes should be sent to (703) 305-5408. Please do not send any informal communication or proposed amendments to this number.

  
Margaret G. Moore  
Primary Examiner  
Art Unit 1712

mgm  
April 26, 1999